

the Commonwealth of the Northern Mariana Islands according to the following criteria:

(i) Vessels included under the arrangement must be registered for use with valid permits issued under the Fishery Ecosystem Plan for Pacific Pelagic Fisheries of the Western Pacific Region;

(ii) The arrangement must not impose any requirements regarding where the vessels included in the arrangement must fish or land their catch;

(iii) The arrangement must be signed by the owners of all the vessels included in the arrangement or their designated representative(s);

(iv) The arrangement must be signed by an authorized official of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands or his or her designated representative(s); and

(v) The arrangement must be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in the Marine Conservation Plan of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands adopted pursuant to section 204 of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) NMFS will notify the parties to the arrangement or their designated representative(s) within 14 days of receiving a copy of the arrangement, if the arrangement does not meet the criteria specified in paragraph (g)(3) of this section.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XC868

#### Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2013-2014 Accountability Measure and Closure for Gulf King Mackerel in Western Zone

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) for commercial king mackerel in the western zone of the Gulf of Mexico

(Gulf) exclusive economic zone (EEZ) through this temporary final rule. NMFS has determined that the commercial annual catch limit (ACL) (equal to the commercial quota) for king mackerel in the western zone of the Gulf EEZ will have been reached by September 20, 2013. Therefore, NMFS closes the western zone of the Gulf to commercial king mackerel fishing in the EEZ. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** The closure is effective noon, local time, September 20, 2013, until 12:01 a.m., local time, on July 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, 727-824-5305, email: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (commercial quota) for the Gulf migratory group king mackerel in the western zone is 1,071,360 lb (485,961 kg) (76 FR 82058, December 29, 2011), for the current fishing year, July 1, 2013, through June 30, 2014.

Regulations at 50 CFR 622.388(a)(1) require NMFS to close the commercial sector for Gulf migratory group king mackerel in the western zone when the ACL (quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Based on the best scientific information available, NMFS has determined the commercial ACL (commercial quota) of 1,071,360 lb (485,961 kg) for Gulf migratory group king mackerel in the western zone will be reached by September 20, 2013. Accordingly, the western zone is closed to commercial fishing for Gulf group king mackerel effective noon, local time, September 20, 2013, through June 30, 2014, the end of the fishing year. The Gulf group king mackerel western zone begins at the United States/Mexico border (near Brownsville, Texas) and continues to the boundary between the eastern and western zones at 87°31.1' W. long., which is a line directly south from the Alabama/Florida boundary.

Except for a person aboard a charter vessel or headboat, during the closure,

no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for or retain Gulf group king mackerel in the EEZ in the closed zone (50 CFR 622.384(e)(1)). A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.382(a)(1)(ii) and (a)(2), provided the vessel is operating as a charter vessel or headboat (50 CFR 622.384(e)(2)). A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(3)).

#### Classification

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule implementing the commercial ACL (commercial quota) and the associated requirement for closure of the commercial harvest when the ACL (quota) is reached or projected to be reached has already been subject to notice and comment, and all that remains is to notify the public of the closure.

Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the king mackerel stock because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the

30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.384(e)(3) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: September 18, 2013.

**Emily H. Menashes,**

*Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 130403321-3803-02]

RIN 0648-BD16

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Regulatory Amendment 19

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement management measures for black sea bass described in Regulatory Amendment 19 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared by the South Atlantic Fishery Management Council (Council). Regulatory Amendment 19 specifies the acceptable biological catch (ABC), and the amendment and this final rule revise the optimum yield (OY), the commercial and recreational annual catch limits (ACLs), and the recreational annual catch target (ACT) for black sea bass harvested in or from the South Atlantic exclusive economic zone (EEZ). This final rule also establishes an annual prohibition on the use of black sea bass pots in the South Atlantic from November 1 through April 30. The purpose of this rule is to provide socio-economic benefits to snapper-grouper fishermen and communities that utilize the snapper-grouper resource, while maintaining fishing mortality at sustainable levels according to the best scientific information available. The rule also prevents interactions between black sea bass pot gear and whales listed under the Endangered Species Act (ESA) during periods of large whale migrations

and during the northern right whale calving season off of the southeastern coast.

**DATES:** This rule is effective October 23, 2013 except for the amendments to §§ 622.190(a)(5) and 622.193(e)(2) which are effective September 23, 2013.

**ADDRESSES:** Electronic copies of Regulatory Amendment 19, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/pdfs/SGRegAmend19.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Rick DeVictor, Southeast Regional Office, telephone: 727-824-5305, or email: [rick.devictor@noaa.gov](mailto:rick.devictor@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic, which includes black sea bass, is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On July 2, 2013, NMFS published a proposed rule for Regulatory Amendment 19 and requested public comment (78 FR 39700). The proposed rule and Regulatory Amendment 19 outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule is provided below.

#### Management Measures Contained in This Final Rule

This final rule revises the commercial and recreational ACLs for black sea bass harvested in or from the South Atlantic EEZ and establishes an annual prohibition on the use of black sea bass pots in the South Atlantic from November 1 through April 30.

##### *Black Sea Bass ACLs*

For black sea bass, Regulatory Amendment 19 changes the ACL and revises the ACL and OY formula from  $OY = ABC = ACL$  to  $OY = ACL$ . For 3 consecutive fishing years beginning in 2013-2014, and including 2014-2015 and 2015-2016, the Council set the ACL value equal to the 2015-2016 fishing year ABC value, which is 1,814,000 lb (822,817 kg). Beginning with the 2016-2017 fishing year, the stock ACL value would be decreased to the yield at 75 percent  $F_{MSY}$ , which equals 1,756,450 lb (796,712 kg), round weight.

This final rule revises the commercial ACL from the current 309,000 lb (140,160 kg), gutted weight, 364,620 lb

(165,389 kg), round weight, to: 661,034 lb (299,840 kg), gutted weight, 780,020 lb (353,811 kg), round weight for the 2013-2014, 2014-2015, and 2015-2016 fishing years; and 640,063 lb (290,328 kg), gutted weight, 755,274 lb (342,587 kg), round weight, for the 2016-2017 fishing year and subsequent fishing years. The recreational ACL is revised from the current 409,000 lb (185,519 kg), gutted weight; 482,620 lb (218,913 kg), round weight, to: 876,254 lb (397,462 kg), gutted weight, 1,033,980 lb (469,005 kg), round weight for the 2013-2014, 2014-2015, and 2015-2016 fishing years; and 848,455 lb (384,853 kg), gutted weight, 1,001,177 lb (454,126 kg), round weight, for the 2016-2017 fishing year and subsequent fishing years.

##### *Black Sea Bass Pot Gear Seasonal Prohibition*

This rule establishes a prohibition on the use of black sea bass pots from November 1 through April 30, each year. The large whale migration period and the right whale calving season in the South Atlantic extends from approximately November 1 through April 30, each year. Since 2010, black sea bass harvest levels have reached the commercial ACL, triggering accountability measures (AMs) to close the commercial sector. Because these in-season commercial AM closures have occurred prior to November 1, actions to prevent black sea bass pot gear from being in the water during the higher whale concentration time period have been unnecessary. However, NMFS has determined that the increase in the commercial ACL contained in this rule could extend the commercial black sea bass fishing season beyond November 1 and into a time period when a higher concentration of endangered whales are known to migrate through black sea bass fishing grounds.

The seasonal sea bass pot prohibition is a precautionary measure to prevent interactions between black sea bass pot gear and whales during large whale migrations and during the right whale calving season off the U.S. southeastern coast. During this closure, no person is allowed to harvest or possess black sea bass in or from the South Atlantic EEZ either with sea bass pots or from a vessel with sea bass pots on board. In addition, sea bass pots must be removed from the water in the South Atlantic EEZ before November 1, and may not be on board a vessel in the South Atlantic EEZ during this closure.